695

SUPREME COURT OF THE UNITED STATES.

No. 65.

JAMES ROACH, ADMINISTRATOR OF PHILIP ROACH, PLAINTIFF IN ERROR,

vs.

DAVID W. HULINGS, DEFENDANT IN ERROR.

IN ERROR TO THE CIRCUIT COURT U. STATES FOR WASHINGTON, D. C.

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S. D. Langtree, Printer.

UNITED STATES OF AMERICA, *ss.*

The President of the United States to the Judges of the Circuit Court of the United States for the District of Columbia, sitting for the County of Washington, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, before you, or some of you, between David W. Hulings, plaintiff, and James Roach, administrator of Philip Roach, defendant, a manifest error hath happened, to the great damage of the said defendant, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have same at Washington on the second Monday of January next, in said Supreme Court to be then and there held; and that the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to be done therein to correct that error, which of right, and according to the laws and custom of the United States, should be done.

Witness the Hon. Roger B. Taney, Chief Justice of the said Supreme Court.

Issued this 16th day of March, 1840.

W. BRENT, *Clerk Circuit Court,*
District of Col'a, for Washington, Cy.

DISTRICT OF COLUMBIA, *ss.*

The United States of America to David W. Hulings, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, on the second Monday of January next, pursuant to a writ of error filed in the clerk's office of the United States for the District of Columbia, in the county of Washington, wherein James Roach, administrator of Philip Roach, is plaintiff in error, and you are defendant in error, to shew cause, if any there be, why judgment rendered against the said James Roach, administrator of Philip Roach, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

[REC. LXV. J. T. 1841.]—1

Witness the Hon. W. Cranch, Chief Judge of the circuit court of the District of Columbia, this 16th day of March, 1840.

W. CRANCH.

Know all men by these presents that we, James Roach, Louis Beeler, Gregory Ennis, are held and firmly bound unto David W. Hulings in the full and just sum of fifteen hundred dollars current money, to be paid to the said David W. Hulings, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this fourteenth day of March, 1840.

Whereas, lately, at a circuit court of the United States for the District of Columbia, sitting for the county of Washington, in a suit pending in the said circuit court, wherein the said David W. Hulings was plaintiff, and the said James Roach, as administrator of Philip Roach, was defendant, judgment was rendered against the said James Roach, and he having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation, directed to the said David W. Hulings, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of January next.

Now the condition of the above obligation is such, that if the said James Roach, administrator of the said Philip Roach, shall prosecute his writ to effect, and answer all damages and costs, if he fails to make his plea good, then the above obligation to be void, otherwise to be and remain in full force and virtue in law.

JAMES ROACH, [L. S.]
LOUIS BEELER, [L. S.]
GREGORY ENNIS. [L. S.]

Signed, sealed and delivered, in presence of
G. LINDEMOOD, } *Witnesses.*
RICHARD JOYCE. }

Approved: W. CRANCH.
Copy—Test: W. BRENT, *Clerk.*

Style of Court.

DISTRICT OF COLUMBIA, *ss.*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-fifth day of the same month, in the year of our Lord one thousand eight hundred

and thirty-nine, and of the Independence of the United States the sixty-third.

Present: The honorable William Cranch, chief judge; Buckner Thurston and James S. Morsell, assistant judges; Alexander Hunter, Esquire, marshal; William Brent, clerk.

Parties.

In the record of the proceedings of the said court, among others, are the following, to wit:

DAVID W. HULINGS
against
JAMES ROACH, administrator of Philip Roach.

Be it remembered, that heretofore, to wit, on the thirteenth day of March, in the year of our Lord one thousand eight hundred and thirty-seven, the said plaintiff, by Joseph H. Bradley, Esqr., his attorney, prosecuted and sued forth out of the circuit court here, the United States writ of *capias ad respondendum*, directed to the marshal of the district aforesaid, in the words and of the tenor following, to wit:

Capias ad Respondendum.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America to the Marshal of the District of Columbia, greeting:

We command you that you take the body of Philip Roach, late of Washington county, if he shall be found within the county of Washington, in your said district, and him safely keep, so that you have his body before the circuit court of the District of Columbia, to be held for the county aforesaid, at the city of Washington, on the fourth Monday of March next, to answer unto David W. Hulings, of a plea that he keep with him the covenant made by the said Philip Roach with the said David W. Hulings, according to the force, form and effect of certain articles of agreement made between the said Philip Roach and David W. Hulings, and so forth.

Hereof fail not at your peril, and have you then and there this writ.

Witness the honorable William Cranch, chief judge of our said court, at the city of Washington, on the 2d day of February, Anno Domini, one thousand eight hundred and thirty-seven.

Issued the 13th day of March, 1837.

W. BRENT, *Clerk.*

JOS. H. BRADLEY.

Nar.

And the aforesaid plaintiff, by his attorney aforesaid, on the day of prosecuting and suing forth of the aforesaid writ declared against the said defendant in the plea aforesaid, in form following, to wit:

DISTRICT OF COLUMBIA,
Washington County, to wit:

David W. Hulings complains of Philip Roach, who was summoned to answer to the said David W. Huling of a plea that he keep with him the covenant made by the said Philip Roach with the said David W. Hulings, according to the force, form and effect of certain articles of agreement, made between him the said Philip Roach and David W. Hulings. And thereupon the said plaintiff, by Joseph H. Bradley and J. B. H. Smith, his attorneys, complains for that

Whereas, heretofore, to wit, on the twenty-seventh day of April, in the year eighteen hundred and twenty-nine, at the county aforesaid, by a certain instrument of writing, then and there made and executed between the said David W. Hulings, and the said Philip Roach, (which said article of agreement, sealed with the seal of the said Philip Roach, the said David W. Hulings now brings into court here, the date whereof is the day and year aforesaid) it was agreed by and between the said parties, that the said David W. Hulings should furnish the said Philip Roach with all the timber for a certain lock, then and there being constructed by the said Philip Roach, which might be wanted therefor, at the price of seven and a half cents per foot, running measure; and four inch plank and two inch plank, and one and a quarter inch boards each per hundred feet, at the usual market price that such plank and boards could be bought for.

And the said Philip Roach then and there by his said agreement, was and became liable and bound to pay to the said David W. Hulings, so much money as he the said David W. should be entitled to receive under and by virtue of the said agreement.

And the said David W. Hulings in fact saith that he did on his part fully and perfectly comply with and perform all and singular the covenants and agreements on his part and behalf in the said agreement mentioned to be performed, and did in fact in execution of the said agreement deliver to the said Philip Roach twenty-two thousand six hundred and sixty-nine feet of timber at the price of seven and a half cents per foot, amounting to the sum of seventeen hundred dollars and seventeen and a half cents, and did also deliver to the said Philip Roach, in pursuance of the said agreement, five thousand four hundred and twenty feet of four inch plank, at five cents per foot, amounting to the sum of two hundred and seventy-one dollars; and did also, in like manner de-

liver to the said Philip Roach, twelve thousand nine hundred and eighty-two feet of two inch plank, at two cents and a half per foot, amounting to the sum of two hundred and ninety-two dollars and nine and a half cents; and also nine thousand four hundred and seventy-four feet of boards at one cent and a quarter per foot, amounting to one hundred and eighteen dollars and sixty-five cents.

And the said David W. Hulings avers, and in fact saith, that the said prices so as aforesaid charged for the said four inch and two inch plank, and for the said boards were the usual market prices for which such plank and boards could be bought at that time, to wit, on the —— day of ——, at the county aforesaid.

And so the said David W. Hulings in fact saith, that under the said agreement, he did furnish and deliver to the said Philip Roach, timber and planks and boards, amounting to the sum of two thousand three hundred and eighty-one dollars and ninety-one and a half cents; yet the said Philip Roach, although often thereto requested, hath not paid to the said David W. the said sum of two thousand three hundred and eighty-one dollars and ninety-one and a half cents, as by the said articles of agreement he was bound to pay; and the said David W. saith, the said Philip hath not kept his covenant and agreement so as aforesaid, made with the said David W., but hath utterly failed to do so, to the damage of the said David W., three thousand dollars, and therefore he brings suit.

JOS. H. BRADLEY,
J. B. H. SMITH.

March Term, 1837.

At which mentioned fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-seven, and the day of the return of the of the aforegoing writ, comes into the circuit court here, the said plaintiff by his attorney aforesaid.

Marshal's Return, &c.

And the marshal of the District of Columbia, to whom the said aforegoing writ, was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit: "Cepi."

A. HUNTER, *Marshal.*

Appearance of Defendant.

And the said defendant being called appears in court here, by Brent & Brent, Esqs., his attorneys.

Rule, Plea and Imparlance to November Term 1837.

And thereupon on motion of the said plaintiff by his attorney aforesaid, it is ruled by the court here, that the said defendant

answer to the declaration aforesaid, of the said plaintiff in the plea aforesaid, or judgment by the court here, will be entered against him in default thereof; and the said defendant by his attorney aforesaid, defends the force and injury, when and so forth, and prays leave of the court here, to imparle until the fourth Monday of November next, and then to answer to the declaration aforesaid, of the said plaintiff in the plea aforesaid, and to him it is granted; the same day is given to the said plaintiff also.

Appearance and Imparlance to March Term, 1838.

At which mentioned fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-seven, to which said day the said defendant had leave to imparl, comes again into the circuit court here, as well the said plaintiff by his attorney aforesaid, as the said defendant by his attorney aforesaid, and the said defendant by his attorney aforesaid, as before, defend*ends* the force and injury, when and so forth, and prays leave of the court here, further so imparl until the fourth Monday of March next, and then to answer to the declaration aforesaid, of the said plaintiff in the plea aforesaid, and to him it is granted; the same day is given to the aforesaid plaintiff also.

Appearance of Plaintiff.

At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-eight, to which said day the said defendant had leave to imparle, and then to answer to the declaration aforesaid, of the said plaintiff in the plea aforesaid, comes again into the circuit court here, the said plaintiff by his attorney aforesaid; and the said defendant doth not come.

Defendant's Death Suggested.

And the said plaintiff by his attorney aforesaid, suggests to the court here, that after the last continuance of the plea aforesaid, and before this day, to wit, at the county aforesaid, the said defendant departed this life, and the same is not denied.

Cause Continued to November Term, 1838.

Whereupon, on motion of the said plaintiff by his said attorney, leave is given by the court here, to the said plaintiff, according to the act of Assembly, in such case made and provided, to issue summon returnable to the next term, directed to the executor or administrator of the said defendant, to appear, and defend in the plea aforesaid.

Whereupon, further process of, and upon the premises aforesaid, is by order of the court here, further continued, until the fourth Monday of November next.

Appearance of Administrator and Plea of General Performance. Plea of Payment.

At which mentioned fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-eight, comes again into the circuit court here, the said plaintiff by his attorney aforesaid; and now also here, comes James Roach, administrators of all and singular, the goods and chattles which were of the said Philip at the time of his death, by Brent & Brent, Esqs., his attorneys, and defends the wrong and injury when, and so forth, and saith that the plaintiff his action aforesaid ought not to have or maintain, because he saith, that the said Philip in his life time, hath well and truly fulfilled and kept and performed all and every the covenants in said agreement contained on his part to be fulfilled, and kept and kept and performed, to wit, at the county aforesaid, and this he is ready to verify, and wherefore he prays judgment if the plaintiff his action aforesaid ought to have or maintain.

And the said defendant, by leave of the court here, &c., according to the form of the statute in such case made and provided, further saith, that the plaintiff his action aforesaid ought not to have or maintain, because he saith that the said Philip Roach in his life time, to wit, on the first day of October, 1835, at the county aforesaid, hath paid to the said plaintiff the said sums of money in the declaration mentioned, with all interest due thereon, and this he is ready to verify, wherefore he prays judgment if the plaintiff his action aforesaid, ought to have or maintain, &c.

Plea—set off.

And the said defendant, by leave of the court here, &c., according to the form of the statute in such case made and provided, saith that the plaintiff his action aforesaid ought not to have or maintain, because he saith, that after the committing of the supposed breaches of covenant in the declaration mentioned, and before the commencement of this suit, to wit, on the first of October, 1835, at the county aforesaid, the said plaintiff was indebted to the said Philip, and still is to the defendant as his administrator in a much larger sum of money, than the money due and owing upon said covenant to the plaintiff by said Philip in his life time, and whereof the plaintiff hath above complained, to wit, in the sum of $3,000 for so much money had and received by the plaintiff to the use of said Philip in his life time. And also in another like sum of money for divers materials and other necessary things furnished at like special instance and request of the plaintiff by said Philip in and about the business of the plaintiff; and also in another like sum of money for divers goods sold and delivered to the plaintiff at his special instance and request by said Philip in his life time; and also in another like sum of money for so much other money by the said Philip in his life time, laid out and expended to

and for the use of the plaintiff at his special instance and request, which several sums of money still remain due and owing to the said defendant as administrator aforesaid, and out of which sums of money this defendant is ready and willing and hereby offers to set off and allow to the plaintiff so much as the damages sustained by the plaintiff, by occasion of the breach of covenant in the declaration mentioned amount to, according to the act of Assembly in Maryland, in force in the county of Washington, and District of Columbia; and this the defendant is ready to verify; wherefore he prays judgment if the plaintiff his action aforesaid ought to have or maintain, &c.

Issue joined to 1st and 2d Pleas, and Replications to 3d Plea.

And the said David W. Hulings, as to the first and second pleas of the said James Roach, administrator of Philip Roach, in like manner and so forth.

And the said David W. Hulings as to the plea of the said James Roach, administrator, &c. by him third above pleaded, saith that he the said David W. Hulings by reason of any thing by the said defendant in that plea alleged, ought not to be barred from having or maintaining his aforesaid action thereof against him the said defendant, because he says that he the said plaintiff was not nor is indebted to the said defendant in manner and form as the said defendant hath above in his said last last plea in that behalf alleged; and this he the said plaintiff prays may be inquired of the country; therefore let a jury thereon appear before the court here on the fourth Monday of March next, by whom, &c., and who neither, &c., to recognize, &c., because as well, &c., and who neither, &c.; and the same day is given to the aforesaid parties then and there and so forth.

Venire Facias to March Term, 1839.

And now to wit, the said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-nine, comes again into the circuit court here, as well the said plaintiff by his attorney aforesaid, as the said defendant by his attorney aforesaid. Whereupon, for trying the issue aforesaid, it is ordered by the court here, that twelve persons from the pannel of petit jurors returned to the court here by the marshal of the district aforesaid, be called, who being called, come, to wit:

Jury.

Charles H. W. Wharton, Edward Tolson, Richard Butt, George Crandle, William Hebb, Vincent King, Samuel Smoot, Henry H. McPherson, Thomas J. Belt, Anthony Smith, David English, and Loenard Harbaugh.

Verdict.—Damages.

Who being duly empannelled and sworn to say the truth in the premises, upon their oath do say, that the said Philip Roach in his life time, did not observe, perform, fulfil or keep any of the covenants, grants, articles, clauses, contracts, conditions and agreements, in the within written articles of agreement contained and specified on the part of the said Philip, to be observed, performed, fulfilled and kept, according to the form and effect of the said articles of agreement within written, as the said plaintiff within complains against him, and they assess the damages of the said plaintiff by reason of the breaches of the covenant aforesaid, to the sum of nine hundred and forty-six dollars and eighty-one cents, current money, with interest from the first day of December, eighteen hundred and thirty-one.

Admission of Assets and Judgment.

Whereupon the said James Roach, administrator as aforesaid, by his attorney aforesaid, acknowledges that he the said goods and chattles, which were of the said Philip Roach at the time of his death, to the value of seven hundred and fifty-nine dollars and eight cents, current money, in his hands to be administered hath; therefore it is considered by the court here, that the said plaintiff recover against the said defendant as well the said sum of seven hundred and fifty-nine dollars and eight cents, to be levied of the said goods and chattles in the hands of the said defendant to be administered being, if the same can be found; and if not, then of the goods and *and* chattles of the said James Roach, the same being found within the county of Washington in the district aforesaid, as the sum of nineteen dollars and one cent by the court here adjudged unto the said plaintiff, for his costs and charges, by him about his suit, in this behalf laid out and expended, and the said defendant in mercy, &c.

Memorandum.

Before the jurors aforesaid withdrew from the bar of the court here, the said defendant, by his attorney aforesaid, filed in court here the following bill of exceptions, to wit:

Defendant's Bill of Exceptions.

HULINGS *vs.* ROACH.

At the trial of this cause, the plaintiff having given in evidence *certain depositions*, (*copied in page* ,) the defendant then gave

in evidence that in the spring of 1831, the plaintiff on a visit to the Monocacy, in Maryland, stated to the witness that he had just settled with Philip Roach (defts. intestate,) all his private accounts, as well as an account of one Davidson against said Roach, and had been paid the same, except five hundred dollars, for which he had Roach's due bill or note payable on demand, but the witness was uncertain whether plaintiff said it was a due bill, or whether he said it was a note; and further stated that he and Roach were going to Washington, where Roach had promised to pay said due bill or note. And the defendant further proved, that about the time of this statement by plaintiff, Roach drew out of a partnership a considerable sum of money for his own uses; whereupon the defendant moved the court to instruct the jury, "that if they believe the account in suit was settled by a due bill or note given by defendant's intestate to plaintiff, then the presumption is that the said due bill or note has been paid." And afterwards further prayed the court to instruct the jury, "that if the jury believe from the evidence that the defendants intestate, in the spring of 1831, closed the account in suit, by giving to the plaintiff his due bill or note, payable on demand, and that immediately afterwards the plaintiff, with Philip Roach, came to Washington for the purpose of receiving from Philip Roach the money for said due bill or note; that about the time of said visit to Washington, a considerable sum of money was withdrawn by said Roach from a partnership in which said Roach was engaged with Patrick Donelly, in consequence of which, Donally abandoned said partnership, then the jury may presume from the above facts, and the non-production of the due bill or note by the plaintiff, no account being given by the plaintiff of said bill or note, that the same was paid and delivered to Philip Roach, and by him destroyed;" but the court refused to give the same and defendant excepts, and this his bill of exceptions is signed, sealed and ordered to be enrolled this 21st day or May, 1839.

W. CRANCH. [L. S.]
JAMES S. MORSELL. [L. S.]

Defendant's 2d Bill of Exceptions.

Defendant's 2d Bill of Exceptions.

The defendant then, upon the evidence stated in the preceding bill of exceptions, prayed the court to instruct the jury, that should they be of opinion, from the said evidence that Philip Roach made and delivered his negotiable note, payable on demand, to the plaintiff, for the balance due to him on a final settlement of all accounts, that the plaintiff cannot recover, unless he has produced said note, or proven that the same was lost, or that the same was cancelled, and the verdict of the jury ought to be for the defendant; which the court refused to give, being of opinion that there was no evi-

dence tending to prove that any such negotiable note was given by the defendant to the plaintiff. To which refusal the defendant excepts, and this his bill of exceptions is signed, sealed and ordered to be enrolled this 21st May, 1839.

B. THRUSTON. [L. S.]
JAMES S. MORSELL. [L. S.]

Deposition by Plaintiff.

Depositions by plaintiff, referred to in defendant's 1st bill of exceptions, page

UNITED STATES OF AMERICA,

State of Pennsylvania, County of Mifflin.

Be it remembered, that on this 20th day of March, 1838, at my chambers in Lewiston, before me, James Chriswell, one of the judges of the court of common pleas for the county of Mifflin aforesaid, personally appeared the following named witnesses in a certain civil cause, now pending in the circuit court of the District of Columbia for the county of Washington, wherein David W. Hulings is plaintiff, and Philip Roach is defendant, and the said several witnesses being by me first severally and carefully examined, and cautioned and sworn to testify the truth, and the whole truth, make oath and do depose and say, as follows, to wit:

Samuel Davidson says:

"I am well acquainted with David W. Hulings and Philip Roach, parties in this suit, and am fully acquainted with the subject matter in dispute. That on the 3d day of April, 1829, Philip Roach, the defendant, (I being a lock and boat builder by trade,) requested me to undertake the building of the said outlet lock, for which the timber, plank, boards, and all the other materials were furnished by David W. Hulings, the contract for which work, signed by Philip Roach and this deponent, and hereto attached, witnessed by James Gallagher, and marked with the letter A. I went on with the work successfully for some time, timber and other materials furnished by D. W. Hulings, until Roach interfered, and did not pay as he contracted, and I was obliged to quit the work.

"He then got hands to work by the day at the lock, but the work not being done right, and the engineer urging it, Roach came and persuaded me to work at it again, and I continued until it was finished. De Wit Clinton and William Morell were the engineers who gave the bill of timber and specifications and directions for the foundation and building of the lock. But they went away before the lock was completed, and Mr. Twining became the engineer; he made several alterations, directed part of the work done to be torn up, changed and built over again, and added very much to

the bill of timber, and plank, and board, and other materials required, and to the expense of finishing the lock. After the first specification and bill of timber, which was upwards of 20,000 feet, Twining changed the hollow quoins, and new ones had to be furnished by D. W. Hulings, at much expence; and Twining's alterations required another round to be added to the lock, besides the timber lost in tearing it up. I have examined the bill of timber now exhibited to me by David W. Hulings, and I would believe the same, comparing it with the original specification and bill of timber, required by the engineers Clinton and Morell, and the additional timber and plank required by Twining, I would believe the bill of D. W. Hulings, which bill is hereto annexed, and marked with letter B, to be correct.

Deponent further states that D. W. Hulings furnished locust timber for pins, and that $5 a cord would be a fair price. Deponent also got boards from D. W. Hulings several times for said Roach; also timber for pump logs, to pump the water out, and keep the lock dry, so that men could work at it; also a cross-cut saw. Further, deponent knows David W. Hulings was the counsel and attended to the suit which deponent brought against Roach, and that said Hulings also became said Roach's bail in the said suit; and after Roach had gone away, Hulings settled the same with deponent, and paid him the amount of the judgment that he, deponent, obtained against Roach. Deponent further states, that from his knowledge of the work done at the said outlet lock, and for which P. Roach told deponent D. W. Hulings was to furnish all the timber, at 7 1-2 cents a foot, as in their contract; also the 4-inch plank, which were worth and sold for $5 a hundred; 2-inch plank at $2 50 a hundred, and inch boards at $1 25 per hundred. That deponent believes this was the market price of boards and planks, the price being increased by the great demand for them in building the canal. Deponent further states that the said P. Roach was poor, and had no means of procuring timber and other materials for the outlet lock, but as they were furnished and credit given to him by D. W. Hulings, until he drew estimates from the State. While he, deponent, worked at the lock, timber, plank, and boards were furnished so as to cause no delay to Roach in the completion of his work.

SAMUEL DAVIDSON.

Sworn and subscribed this 20th day of March, 1838, before me,
JAS. CRISWELL.

Articles of Agreement between Roach and Hulings.

Articles of agreement entered into this 3d day of April, 1829, between Philip Roche, of one part, and Samuel Davidson of the other.

The said Roche do agree to give the said Davidson one thousand and seventy dollars, for compleeting all the timber and iron work of

outlet lock at Lewistown, in a workmanlike manner in every respect, according to the plan and specification of the engineers, to be paid as the work progresses, according to the estimates of the engineers; the said Roch to furnish all the materials required, to the said Davidson, on the ground adjoining the lock, and the said Davidson to conform to any alteration as the said Roche may be to the commissioners or engineers.

In witness whereof, the said parties have hereunto set their hands and seals, the day and year above mentioned.

PHILIP ROCHE, [L. S.]
SAM. DAVIDSON. [L. S.]

Witness:

JAMES CALLAGHER.

Exhibit B.

Philip Roach,

1829.	To David W. Hulings.		
April 5.	To 1,000 feet per Capt. Henry - -		$75 00
	1,508 do Geo. Smith - -		113 09
	2,603 do Smith & Coy - -		195 25
	1,392 do Walls - - -		103 90
	647 do Brown & Logan -		48 53
	2,311 do Corn pr opst -		173 40
	2,664 do Green & Jackson -		199 80
	657 do do do -		49 30
	1,702 do W. S. May - -		127 65
	1,753 do do - -		130 88
	264 do do - -		19 80
	4,751 20,252 do - -		356 32
	65 feet pump logs, at 10 c. -		6 50
May,	To 2 1-4 cords pin timber, at $5 - -		11 50
24,	1,166 feet plank per Wm. Foster, at 5c.		58 00
	1,259 do do do 5c.		62 95
	2,530 feet 4 in. plank, 12 ft. long, at 5c. per Forsythe - -		126 50
	4,222 ft. 2 in. plank, 18 ft. long, at 2¼ c. -		94 99
	368 ft. do do 12 ft. do at 2¼ c. -		8 28
	722 ft. do 5312 do per Wm. Hough -		16 25
April 17.	To 467 ft. boards, 1 25 c. - -		5 84
May,	2,225 ft. do from yard, 1 25 -		27 67
	44 ft. do do do -		55
June 7,	2,052 ft. 2 in. boards, 2 25 - -		46 17
	56 ft. clear stuff - - -		70
Aug. 13,	520 ft. 2 in. plank, per Burkholder, 2 25		11 70
	157 ft. boards, 1 25 - - -		1 97
Oct.	887 ft. 2 in. plank, a 25 c. - -		18 75
19,	668 ft. boards, per Foster 4,800 } 5,468 ft. boards, 1 25 - -		68 35

Nov.	To 700 ft. boards, a 1 25 - -		8 75
	421 ft. 4 in. plank, from Robb, a 5c.		21 05
	723 ft. 2 in. do do 2 25		16 26
	1 of 71, 2 of 36, 4 of 26, 3 of 33, 4 of 9½, 384 ft. 2 of 33, 1 of 45, 1 of 72, 183, 4 head 20, 4-814, 264; 4 mitre, 19-2, 76, 8; 20 gate arms, 9-8, 193. 4,270; 8 gate arms, 77,4; 4 bal. beams, 26-104, 4, 3-12-193; 2 quoin posts, 18, 10,37, 10, 4, 9, 6, 38;		
	2 virz. 5, 8, 44, 106, 1217 - -		91 30
	2 quoin posts, a second time, at 7 50 -		15 00
Sept.	1¼ cords wood, 2 25; locust timber, 2 cords, 4 00 - - -		6 25
	65 pump logs, 6 50; 1 cord pin timber, 5, per May - - - -		11 50
1829.			
April 20,	1 cast steel cross-cut saw, per contract		8 00
Oct.	3,488 ft. 2 in. plank, per J. & P. Livingston, at 2 00 - - -		69 76
	Boards for 2 scifts, to Davidson - -		4 00
April 28,	413 feet boards, per S. Davidson, for P. Roach, 1 25 - - -		5 16
1830.			
May 27.	Fee, Davidson vs. Roach, 10 00 - -		10 00
	To costs of appeal - - -		21 75
			$2,484 37
	Deduct boards returned,		
	56 feet 4 inch plank, at 5 c. -	2 80	
	845 do 2 do do 2 50 -	18 01	
	118 do boards, at 1 25 - -	1 37	
	442 do timber, at 5 - - -	21 10	
		$43 28	43 28
			$2,405 09

Test: W. BRENT, *Clerk*.

And whereas, afterwards, to wit, on the sixteenth day of March, in the year of our Lord one thousand eight hundred and forty, the said James Roach, administrator of Philip Roach, produced and filed in court here the United States writ for the correcting of errors, of and upon the judgment aforesaid, directed to the judges of the circuit court of the District of Columbia, in the county of Washington; and in pursuance thereof and according to the form and effect of the law in such case made and provided, a transcript of the record of proceedings of the judgment aforesaid, and all things

thereunto relating, with the writ of error aforesaid, and a copy of the appeal bond hereunto annexed, is hereby transmitted to the said Supreme Court accordingly.

In testimony whereof, I have hereunto subscribed my name, [L. S.] and affixed the seal of said court, at the city of Washington, this 18th day of December, 1840.

W. BRENT, *Clerk*.

Contract between David W. Hulings and Philip Roach.

David W. Hulings has agreed with Philip Roach as follows:

He will furnish him with all the timber for the outlet lock, as may be wanted, for seven and a half cents a foot, running measure, and the 4 inch plank at dollars per hundred, and the 2 inch plank at two dollars and per hundred, and the inch and 1¼ boards at one dollar and per hundred. The boards and plank at the usual market price that they can be bought for.

April 27th, 1829.

D. W. HULINGS, [L. S.]
PHILIP ROACH. [L. S.]

Copy, Test: W. BRENT, *Clerk*.